

A T T A C H M E N T D

RESOLUTION FOR

PROPOSED RULE 314 – FEES FOR ARCHITECTURAL COATINGS

RESOLUTION NO. 2008-

A Resolution of the Governing Board of the South Coast Air Quality Management District certifying that Proposed Rule 314 – Fees for Architectural Coatings is exempt from the requirements of the California Environmental Quality Act (CEQA).

A Resolution of the AQMD Governing Board adopting Rule 314 – Fees for Architectural Coatings.

WHEREAS, the South Coast Air Quality Management District Governing Board finds and determines that Proposed Rule 314 – Fees for Architectural Coatings, is considered a "project" pursuant to the CEQA; however, South Coast Air Quality Management District staff reviewed the proposed project and determined that the proposal is statutorily exempt from the requirements of CEQA pursuant to CEQA Guidelines §15273 – Statutory Exemption for Rates, Tolls, Fares and Charges; and

WHEREAS, the AQMD has had its regulatory program certified pursuant to Public Resources Code Section 21080.5 and has conducted CEQA review and analysis pursuant to such program (Rule 110); and

WHEREAS, AQMD staff has prepared a Notice of Exemption (NOE) for Rule 314, as proposed to be adopted, that is completed in compliance with CEQA Guidelines §15002(k)(1) – Three Step Process, and §15061 (b)(1) – Review for Exemption (By Statute); and

WHEREAS, the staff report, the CEQA NOE, this May 2, 2008 Board letter, and other supporting documentation was presented to the AQMD Governing Board and that the Board has reviewed and considered the entirety of this information prior to approving the project; and

WHEREAS, the AQMD Governing Board has determined that a need exists to adopt Rule 314 – Fees for Architectural Coatings to recover the costs of AQMD programs related to these sources; and

WHEREAS, the AQMD Governing Board obtains its authority to adopt, amend, or repeal rules and regulations from Sections 39002, 40000, 40001, 40440, 40441, 40522.5, 40523, 40702, 40725 through 40728, and 41508 of the California Health and Safety Code; and

WHEREAS, The AQMD Governing Board has determined that Rule 314 – Fees for Architectural Coatings is written and displayed so that the meaning can be easily understood by persons directly affected; and

WHEREAS, the AQMD Governing Board has determined that Rule 314 – Fees for Architectural Coatings, as proposed, is in harmony with, and not in conflict

with, or contradictory to, existing statutes, court decisions, or state or federal regulations; and

WHEREAS, the AQMD Governing Board has determined that Rule 314 – Fees for Architectural Coatings, as proposed, does not impose the same requirements as any existing state or federal regulation, and the proposed rule is necessary and proper to execute the powers and duties granted to, and imposed upon, the AQMD; and

WHEREAS, the AQMD Governing Board references the following statutes which the AQMD hereby implements, interprets or makes specific: Health and Safety Code Sections 40001 (rules to achieve ambient air quality standards), 40440(a) (rules to carry out the Air Quality Management Plan), and 40522.5 (fees for area sources); and

WHEREAS, the AQMD Governing Board has determined that the Socioeconomic Impact Assessment is consistent with the provisions of the March 17, 1989 and October 14, 1994, Board Resolution for rule adoption and Health and Safety Code Sections 40440.8, 40728.5 and 40920.6; and

WHEREAS, the AQMD Governing Board has reviewed and considered the staff's findings related to cost and employment impacts of Proposed Rule 314 – Fees for Architectural Coatings set forth in the socioeconomic impact assessment, and hereby finds and determines that cost and employment impacts are as set forth in that assessment; and

WHEREAS, the AQMD Governing Board has actively considered the Socioeconomic Impact Assessment and has made a good faith effort to minimize such impacts; and

WHEREAS, a public hearing has been properly noticed in accordance with all provisions of Health and Safety Code, Section 40725; and

WHEREAS, the AQMD Governing Board has held a public hearing in accordance with all provisions of law; and

WHEREAS, the AQMD Governing Board has determined that Proposed Rule 314, in addition to the proposal for recovering specific program costs are necessary to fund the AQMD FY 07-08 budget; and

WHEREAS, the AQMD Governing Board finds and determines that proposed new fees for Architectural Coatings programs accurately reflect levels of effort that are necessary to recover the reasonable costs; and

WHEREAS, the AQMD Governing Board finds and determines, taking into consideration the factors in §(d)(4)(D) of the Governing Board Procedures, that the modifications adopted which have been made to Rule 314 – Fees for Architectural Coatings since notice of public hearing was published do not significantly change the meaning of the proposed rule within the meaning of Health and Safety Code §40726 and

would not constitute significant new information pursuant to CEQA Guidelines §10588.5; and

WHEREAS, the AQMD specifies the manager of Rule 314 as the custodian of the documents or other materials which constitute the record of proceedings upon which the adoption of this proposed rule is based, which are located at the South Coast Air Quality Management District, 21865 Copley Drive, Diamond Bar, California; and

NOW, THEREFORE, BE IT RESOLVED, that the South Coast Air Quality Management District Board does hereby certify the Notice of Exemption for Rule 314 – Fees for Architectural Coatings, as proposed to be adopted, completed in compliance with CEQA Guidelines §15002(k)(1) - Three Step Process, §15061(b)(1) – Review for Exemption and §15273 – Rates, Tolls, Fares and Charges. This information was presented to the Governing Board, whose members reviewed, considered, and approved the information therein prior to acting on Proposed Rule 314; and

BE IT FURTHER RESOLVED that the AQMD Governing Board directs staff to provide the Stationary Source Committee with annual status reports on the compliance activities related to Rule 1113 – Architectural Coatings; and

BE IT FURTHER RESOLVED that the AQMD Governing Board directs staff to explore the possibility of including architectural coatings distributors in sharing the fees with manufacturers as well as shifting the fee from manufacturers to end-users by means of a point-of-sale fee collected at retail, and any other methods to equally implement the architectural coatings program; and such evaluation to be submitted to the Governing Board for its review prior to May 1, 2010; and

BE IT FURTHER RESOLVED that the AQMD Governing Board directs staff to annually evaluate the fees collected under Rule 314 and to limit the fee increase for the subsequent year or offer rebates to the manufacturers, as necessary, if a surplus occurs or increase fees for the subsequent year if a shortage occurs; and

BE IT FURTHER RESOLVED that the AQMD Governing Board directs staff to prepare an annual status report on the Rule 314 fee program, including information on inspections, compliance testing, and enforcement actions related to architectural coatings; and

BE IT FURTHER RESOLVED that the AQMD Governing Board directs AQMD staff to develop work program codes to track the time dedicated to architectural coatings related work, including separate codes for compliance efforts focusing on manufacturers and end-users and that staff shall annually calculate the costs charged during the previous year to these work program codes, in order to determine the annual costs of the program; and

BE IT FURTHER RESOLVED, that the AQMD Governing Board does hereby adopt, pursuant to the authority granted by law, Rule 314 – Fees for Architectural Coatings, as set forth in the attached, and incorporated herein by this reference.

Attachment

DATE: _____

CLERK OF THE BOARD